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October 22, 2021

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U.S. District Court Judge William M. Conley
Western District of Wisconsin
120 North Henry Street
Madison, WI 53703

Single

**Re: Case Nos. 21-cv-00096-wmc & 21-cv-00306-wmc (cons.)
National Wildlife Refuge Association, et al. v. Rural Utilities Service, et al.
Update Regarding State Court Litigation on Cardinal-Hickory Creek Transmission
Line**

Dear Judge Conley:

Intervenor-Defendants, American Transmission Company LLC and ATC Management Inc., ITC Midwest LLC, and Dairyland Power Cooperative (“Co-owners”) are writing in response to Plaintiffs Update Regarding State Court Litigation on Cardinal-Hickory Creek Transmission Line, ECF No. 140 (“State Case Update”).

As Plaintiffs explain in their State Case Update, Plaintiffs filed for a temporary injunction in the state case on October 8, 2021, the same day Plaintiffs filed the motion for a preliminary injunction in this Court. *County of Dane, et al. v. Public Service Commission of Wisconsin*, Case No. 19-cv-3418 (Wis. Cir. Ct. Dane Cnty.). Circuit Court Judge Jacob Frost held a hearing on Monday, October 18, 2021. The State Court ruled orally on the Motion. The transcript from the hearing is attached as Exhibit A.

Co-owners agree that the State Court granted Plaintiff’s motion for a temporary injunction. However, Plaintiff’s Update Letter misstates the grounds on which the State Court granted the temporary injunction. During the October 18, 2021 motion hearing, the State Court stated that the basis for its finding of a “reasonable likelihood of success” was related to Petitioners’ bias claims only, and not as to the merits of their overall claims. Exhibit A at 80 (“my holding is that, because of the likelihood of success on the bias issue, all of the factors are met to grant a temporary injunction.”); *see also id.* at 76 (“I’m not making a finding of a reasonable probability of success on the merits review. It’s too close of a call for me to say that it’s so clear that I should grant a temporary injunction.”).

Moreover, the State Case has no bearing on the Motion for Preliminary Injunction currently before this Court because the State Case involves distinct claims brought under Wisconsin State laws and the temporary injunction was ordered in part under Wis Stat 196.43, which provides special procedures for injunctions involving public utilities.

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Sincerely,

A handwritten signature in blue ink, appearing to read 'TJ', followed by a horizontal line.

Thomas C. Jensen

Attorney for Intervenor-Defendants American Transmission Company LLC by its corporate manager, ATC Management Inc., ITC Midwest LLC and Dairyland Power Cooperative.

CERTIFICATE OF SERVICE

I hereby certify that on October 22, 2021, I electronically filed the foregoing document with the Clerk of Court using the Court's ECF system, which will serve the document on all counsel of record registered for electronic filing in the above-captioned proceeding.

Dated: October 22, 2021

/s/ Thomas C. Jensen
Thomas C. Jensen